

§ 2921.4 Penalties.

(a) In addition to the civilly enforceable penalties listed in this part, any person who knowingly and willfully violates any regulation in § 2921.3 may be tried before a designated United States magistrate and fined in accordance with Title 18 of the United States Code, or imprisoned for no more than 12 months, as provided by Section 303(a) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1733(a)), or both. Under the Sentencing Reform Act of 1984, as amended by the Criminal Fine Improvements Act of 1987, (18 U.S.C. 3571), an individual who has been found guilty of an offense under this part may be fined not more than \$100,000, and an organization that has been found guilty of an offense under this part may be fined not more than \$200,000.

(b) In addition to the criminal penalties for offenses under section 303(a) of the Federal Land Policy and Management Act, any person who willfully injures any property of the United States, or of any department or agency of the United States, may be punished in accordance with 18 U.S.C. 1361, as follows: If the property damage exceeds the sum of \$100, by a fine of not more than \$10,000 or imprisonment for not more than ten years, or both. Under 18 U.S.C. 3559(a)(4), an offense under 18 U.S.C. 1361 is classified as a Class D felony. An individual who has been found guilty of a Class D felony may be fined not more than \$250,000, and an organization may be fined not more than \$500,000, under the Criminal Fine Improvements Act of 1987 (18 U.S.C. 3571).

8. Section 2921.6 is added to the original proposed rule to read as follows:

§ 2921.6 Activities requiring a permit.

(a) *General.* All commercial activities require a permit, unless they require a lease under § 2921.1(b). Noncommercial activities may require a permit or lease if the authorized officer determines that they are likely to result in more than casual use. Casual use activities do not require a permit or lease.

(b) *Still photography, or camcorders and other videotaping.* A permit is required for professional still photography, or the professional use of camcorders or other videotaping equipment, on public lands only under the following circumstances:

(1) If photographs or videos of public land users will be made with the express purpose of selling the photographs or videos to those same users;

(2) If photographs or videos are made under an existing contract to sell them;

(3) If photographs or videos of commercial products are made on public lands for advertising purposes; or

(4) If the photography or videotaping is reasonably likely to affect adversely the public lands or their resources.

6. Section 2921.7 is added to the original proposed rule to read as follows:

§ 2921.7 Minimum impact permits and full permits.

(a) In response to a permit application, the authorized officer may issue a minimum impact permit or a full permit based on the criteria in paragraphs (b) and (c) of this section, or based on the criteria in a validly adopted decision document referred to in paragraph (d)(1) of this section. Any permit application for an activity as to which the authorized officer determines that the criteria in paragraphs (b) and (c) of this section do not apply will be considered for a minimum impact permit.

(b) The authorized officer will not issue a minimum impact permit, but will consider issuing a full permit, when any of the following conditions apply:

(1) Any crucial or critical wildlife habitat (recognizing seasonal variations), or sensitive, threatened, or endangered species, may be affected.

(2) There is a reasonable likelihood that a Native American sacred site would be affected.

(3) There is a major use of pyrotechnics.

(4) There is a reasonable likelihood of more than minimal impact on soil, air, or water.

(5) Explosives will be used.

(6) Heavy equipment will be used in a manner likely to cause environmental damage.

(7) There is danger of introduction of exotic species into the area.

(8) There may be disturbance of resource values, including, but not limited to, any of the following:

(i) Historical, cultural, or paleontological sites;

(ii) Sensitive soils;

(iii) Relict environments, those surviving from an earlier period in a particular area;

(iv) Wetlands or riparian areas; or

(v) Areas of Critical Environmental Concern designated under § 1610.7-2 of this title;

(c) The authorized officer will not issue a minimum impact permit, but will consider issuing a full permit, if the activity meets the conditions of both paragraphs (c)(1) and (c)(2) of this section, as follows:

(1) The activity is located in any of the following:

(i) BLM-designated Wilderness Study Areas.

(ii) Areas proposed for wilderness designation in legislation currently in Congress;

(iii) Wild and Scenic River corridors;

(iv) Areas or sites on the National Register of Historic Places;

(v) Other sensitive areas as determined by the authorized officer; and

(2) One or more of the following activities will occur in the permit area:

(i) Vehicles will be used, except on roads that are mechanically constructed;

(ii) Facilities or film sets will be constructed;

(iii) There will be significant restriction of public access;

(iv) There will be significant use of domestic livestock;

(v) Aircraft will be used;

(vi) Fifteen (15) or more vehicles will be used;

(vii) Seventy five (75) or more people will be present at any one time; or

(viii) The activity will continue for more than 10 days.

(d)(1) The provisions of paragraphs (b) and (c) of this section do not apply if:

(i) The Bureau of Land Management has established criteria for minimum impact permits in a validly adopted decision document covering the proposed activity and the specific public lands that are the subject of the permit application;

(ii) The decision document was signed before (30 days after publication of the final rule); and

(iii) The decision document's rationale and supporting environmental analysis are valid at the time the permit is issued.

(2) If all of the requirements listed in paragraph (d)(1) of this section are met, the authorized officer will apply the minimum impact permit criteria established in the decision document to determine whether a minimum impact permit or a full permit is appropriate for the proposed activity.

(3) If, after (30 days after publication of the final rule), the Bureau of Land Management prepares or amends a decision document covering the activities and public lands that are the subject of a permit application, the authorized officer will apply the criteria in paragraphs (b) and (c) of this section to determine whether a minimum impact permit or a full permit is appropriate.

9. Section 2921.8 is added to the original proposed rule to read as follows: